



ZONING ADMINISTRATOR
NOTICE OF DECISION

Date: July 21, 2011
Applicant: CKE Restaurants, Inc.
Case No.: ZAV-09-07
Address: 695 H Street
Project Planner: Caroline Young

Notice is hereby given that on July 21, 2011, the Zoning Administrator considered Variance (ZAV) application ZAV-09-07, filed by CKE Restaurants, Inc. ("Applicant"). The Applicant requests Variance approval to allow deviation from the minimum standards for the lot coverage, floor area ratio, and building height for the proposed one-story 2,491 square-foot Carl's Jr. restaurant. The Project is located at 695 H Street ("Project Site") and is owned by Adel and Muntaha Somo ("Property Owner"). The Project Site is zoned Urban Core Specific Plan (UC-12), with a General Plan designation of Transit Focus Area (TFA). The Project is more specifically described as follows:

The Project consists of the construction of a 2,491 square-foot Carl's Jr. restaurant with a drive through. The Variance approval to allow deviation from the minimum standards for the lot coverage, floor area ratio, and building height for the proposed restaurant. The site has several constraints on the property such as required 19-foot dedication along H Street and a 6-foot dedication along Woodlawn Avenue. A total of eight easements run through the property. The eight easements are for utilities and drainage. Five of the easements run adjacent to the proposed building, bisecting the property, therefore, placing constraints on the location and size of the building. Pursuant to City regulations, no buildings or structures can be placed within an easement. The other remaining three easements are located within the parking and landscaped area along the eastern property line and a portion of the rear property line. Due to the site constraints, a Variance is requested.

Planning Staff has reviewed the proposed project for compliance with the California Environmental Quality Act and has determined that the project qualifies for a categorical exemption pursuant to Section 15305 (Minor Alterations in Land Use Limitations) of the State CEQA Guidelines. Thus, no further environmental review is necessary.

The Zoning Administrator, under the provisions of Section 19.14.030 B of the Chula Vista Municipal Code, has conditionally approved said request based upon the following findings of facts as required by CVMC Section 19.14.190:

That a hardship peculiar to the property and not created by any act of the owner exists.

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That such a variance is necessary for the preservation and enjoyment of substantial property rights possessed by other properties in the same zoning districts and in the same vicinity, and that a variance, if granted would not constitute a special privilege of the recipient not enjoyed by his neighbors.

The Project will allow the Applicant to build the restaurant, and associated amenities similar to other property owners in vicinity of the project. Other parcels surrounding the area are not burdened by constraints such as several easements running through the property and limiting the buildable area.

That the authorizing of such variance will not be of substantial detriment to the adjacent property and will not materially impair the purposes of this chapter or public interest.

The granting of this Variance will not be of substantial detriment to the adjacent property. The other surrounding parcels are developed with commercial or multi-family developments and will not be adversely affected by the project. The proposed site has been vacant since 2006 and currently has an active code enforcement violation associated with accumulation of trash, junk and debris. The construction of this project will improve the site.

That the granting of this variance will not adversely affect the General Plan of the City or the adopted plan of any government agency.

The granting of this Variance will not affect the General Plan of the City. The proposed commercial use is consistent with the General Plan which designates the site "TFA" which allows a mix of commercial retail, office, and residential uses, and all aspects of the Chula Vista Municipal Code other than the required minimum standards for the lot coverage, floor area ratio, and building height.

- I. The following shall be accomplished to the satisfaction of the Development Services Director, prior to issuance of building permits, unless otherwise specified:

Planning Division:

1. The Applicant/Representative and Property Owner shall execute this document by making a true copy and signing both this original Notice of Decision and the copy on the lines provided below, said execution indicating that the Applicant/Representative and Property Owner have each read, understood and agreed to the conditions contained herein, and will implement same. Upon execution, the true copy with original signatures shall be returned to the Development Services Department. Failure to return the signed true copy of this document within 30 Days of the effective date herein shall indicate the Applicant/Representative and Property Owner's desire that the project, and corresponding application for building/grading permits and/or business license, be held in abeyance without approval.

Signature of Applicant/Authorized Representative

Date

Signature of Property Owner/representative

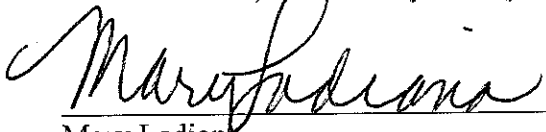
Date

2. Approval of this Variance application is contingent upon approval of Design Review application, DRC-11-07 by the Zoning Administrator.

II. The following on-going conditions shall apply to the Project as long as it relies upon this approval.

2. The Applicant shall maintain the Project in accordance with the approved plans for ZAV-09-07, date stamped on May 23, 2011, which includes a site plan and architectural elevations on file in the Planning Division, the conditions contained herein, and Title 19.
3. Approval of this request shall not waive compliance with all sections of Title 19 of the Municipal Code, and all other applicable City ordinances in effect at the time of building permit issuance.
4. The Property Owner and Applicant shall and do agree to indemnify, protect, defend and hold harmless City, its City Council members, officers, employees and representatives, from and against any and all liabilities, losses, damages, demands, claims and costs, including court costs and attorney's fees (collectively, liabilities) incurred by the City arising, directly or indirectly, from (a) City's approval and issuance of this Variance and (b) City's approval or issuance of any other permit or action, whether discretionary or non-discretionary, in connection with the use contemplated on the Project Site. The Property Owner and Applicant shall acknowledge their agreement to this provision by executing a copy of this Variance Application where indicated above. The Property Owner's and Applicant's compliance with this provision shall be binding on any and all of the Property Owner's and Applicant's successors and assigns.

APPROVED BY ZONING ADMINISTRATOR OF THE CITY OF CHULA VISTA,
CALIFORNIA, this 21st day of July 2011.



Mary Ladiana
Zoning Administrator